

TIER 1 GENERAL PERMIT TO DISCHARGE STORM WATER ASSOCIATED WITH INDUSTRIAL ACTIVITY, WPDES PERMIT NO. WI-S067849-5: FACT SHEET – JANUARY 2021

Facilities engaged in the industrial activities listed in s. NR 216.21(2), Wis. Adm. Code, must apply for and obtain a storm water discharge permit from the Wisconsin Department of Natural Resources (Department). A storm water discharge permit requires a permittee to develop and follow a storm water pollution prevention plan. The plan must be prepared in accordance with the requirements contained in s. NR 216.27, Wis. Adm. Code, including provisions for a site drainage map, implementation schedules for storm water pollutant control best management practices, annual plan and facility assessments, and both non-storm water and storm water discharge monitoring. This fact sheet provides information regarding the Tier 1 general permit for the discharge of storm water associated with industrial activity.

Department's Authority to Issue Permits

The Federal Water Pollution Control Act of 1972 (Public Law 92-500), also called the Clean Water Act, requires that all point sources discharging pollutants to waters of the U.S. obtain a wastewater discharge permit. These permits specify the conditions under which wastewaters can be discharged so that water quality standards for receiving waters are met. In 1974, the United States Environmental Protection Agency (US EPA) delegated the authority for issuing these permits in the State of Wisconsin to the Department. The Department exercises its permitting authority through the Wisconsin Pollutant Discharge Elimination System (WPDES), authorized under ch. 283, Wisconsin Statutes. Wastewater permits issued by the Department must meet with the approval of the US EPA.

The Department has the authority to issue two types of permits for the discharge of pollutants to waters of the state: 1) individual WPDES permits and 2) general WPDES permits. The Department issues individual WPDES permits when the interaction between pollutant discharges and water quality is complex. These permits require careful scrutiny and must be tailored to the specific conditions of the facility with the discharge. The Department issues general WPDES permits to broad classes of dischargers where environmental protection can be achieved through a set of general provisions that apply to all dischargers in an industrial category. This Tier 1 industrial storm water discharge permit is a general permit.

Department's Industrial Storm Water Discharge Program

In 1987, Congress enacted amendments to the Clean Water Act, authorizing a national program of comprehensive storm water pollution control. As a result, the US EPA requires National Pollutant Discharge Elimination System (NPDES) permits for discharges of storm water from certain municipalities, industrial facilities, and construction sites. The class of storm water discharges "associated with industrial activity" was identified as a high priority for permitting. Through a series of rule-making authorized by the 1987 amendments (40 C.F.R. §122.26), the US EPA has identified in final rules an extensive list of industries requiring a permit to discharge storm water, set forth permit application and notification requirements for industries requiring coverage under a general permit, and specified minimum monitoring and reporting requirements for storm water discharges associated with industrial activity.

The Department is the delegated authority to issue state permits comparable to NPDES permits for wastewater and storm water discharges under the WPDES program pursuant to ch. 283, Wis. Stats. Accordingly, Department created ch. NR 216, Wis. Adm. Code, for permitting storm water discharges associated with industrial activity, construction sites disturbing one acre or more on land, and certain municipalities that own or operate municipal separate storm sewer systems. These rules set the framework for the Department to create general permits for the discharge of storm water associated with industrial activity.

The Tier 1 general permit covers the industrial activity listed in s. NR 216.21(2)(a), Wis. Adm. Code, including a variety of "heavy" type industries, bulk storage facilities, and facilities engaged in salvage type operations. The Tier 2 general permit covers the industrial activity listed in s. NR 216.21(2)(b), Wis. Adm. Code, including a variety of "light" industries, certain transportation facilities, mining operations, steam electric generating facilities,

cement product manufacturers, and asphalt paving mixtures. Under these administrative rules, Department may allow permittees to change coverage from one tier general permit to another, depending upon conditions present at the facility that could contaminate storm water. Ultimately, if a permittee can demonstrate that storm water at the facility is not exposed to any industrial materials or activities listed in s. NR 216.21(3)(e)3., Wis.

Adm. Code, a facility can certify to a condition of “no exposure” for storm water discharges.

The Tier 1 general permit will be used by the Department to cover existing and new storm water discharges associated with facilities that meet the applicability criteria of s. NR 216.21(2)(a), Wis. Adm. Code.

Purpose and Nature of the Tier 1 General Permit

Chapter NR 216, Wis. Adm. Code, defines the conditions under which storm water associated with industrial activity can be discharged so that waters of the state (including surface waters, ground water, and wetlands) will be protected. This industrial storm water general permit is intended to meet the permitting requirements for storm water associated with industrial activity as established in ch. NR 216, Wis. Adm. Code, for a Tier 1 facility.

This general permit will be used by the Department to authorize and regulate storm water discharges from both new and existing eligible industrial facilities. For a facility seeking initial permit coverage, coverage under this general permit will become effective at a facility beginning upon the start date specified by Department in a cover letter to the facility. For a facility with existing general permit coverage under a previously issued version of the Tier 1 general permit, coverage under this general permit will become effective at the facility beginning upon the Effective Date of the reissued Tier 1 general permit. This general permit will not be used to provide initial permit coverage to a storm water discharge within Indian Country after September 30, 2001. Contact the Department for non-Indian discharges within Indian Country to determine if state permit coverage from the Department is required. Storm water discharges within Indian Country from non-tribal lands that have state coverage under an industrial storm water general permit prior to September 30, 2001 may continue to be covered under this reissued general permit for purposes of state law. In summary, this general permit requires regulated industrial facilities to:

- 1) Identify and eliminate unpermitted non-storm water discharges from storm water outfalls;
- 2) Develop a Storm Water Pollution Prevention Plan that emphasizes "source area" controls, which are designed to prevent storm water from becoming contaminated;
- 3) Implement the Storm Water Pollution Prevention Plan and conduct visual site inspections to assure that the plan is working;
- 4) Determine if storm water runoff from the facility is discharged to an Outstanding Resource Water, Exceptional Resource Water, impaired water, or an impaired water for which a federally approved Total Maximum Daily Load has been developed, and if so, modify the facility's Storm Water Pollution Prevention Plan accordingly to address water quality concerns;
- 5) Visually monitor storm water outfalls for the presence of contaminants during rainfall or runoff events;
- 6) Perform chemical monitoring for pollutants expected to remain in significant quantities in storm water following implementation of “source area” controls; and
- 7) Keep progress and monitoring results current and available for inspection by the Department.

Several technical support documents have been prepared to assist industries in complying with the general permit:

The Department has developed Industrial Storm Water Pollution Prevention Planning Manual, dated September 1994, which provides industries with guidance in preparing the required pollution prevention plans. This document is available online at: <https://dnr.wisconsin.gov/topic/Stormwater/publications.html>.

The Department has developed Wisconsin's Guidance for Industrial Storm Water Sampling, dated September 1994, which provides industries with guidance in sample collection, preservation, and other aspects important to preparing for sampling. This document is available online at: <https://dnr.wisconsin.gov/topic/Stormwater/publications.html>.

The Department has developed technical standards for erosion control and storm water management at construction sites and for post-construction runoff management. The standards are available at: <http://dnr.wi.gov/topic/stormwater/standards/>.

The US EPA has developed industrial storm water guidance which is available online at: <https://www.epa.gov/npdes/stormwater-discharges-industrial-activities-fact-sheets-and-guidance>.

Summary of Key Changes from the Previous Version of the Tier 1 General Permit

This Tier 1 general permit (Permit No. WI-S067849-5) replaces the previous version of the general permit (Permit No. WI-S067849-4). Key changes to the general permit include the following:

Proposed 4-year permit term - This general permit is set to expire in 4 years from the permit date of issuance, instead of the typical effective term of 5 years as applicable in s. NR 205.08(1)(d), Wis. Adm. Code. In 2021, the storm water program has 7 general permits expiring, 6 of them being industrial general permits. The department is proposing a shorter permit term during this permit reissuance to balance the department's workload in the future by staggering the issuance of industrial general permits. A 4-year permit term will continue to provide regulatory certainty for permittees. The Department intends to return to the typical 5-year term in subsequent reissuances of these two general permits. (*ref: cover page*)

Electronic reporting - The federal National Pollutant Discharge Elimination System (NPDES) Electronic Reporting Rule requires the electronic submittal of permit applications, reports, and other documents. Additionally, the department began requiring applicants submitting a Notice of Intent for coverage under an industrial storm water permit to use the online e-permitting system in October 2020. The submission requirements of forms (notice of intent, no exposure certification, transfer of coverage, and notice of termination) were updated to be submitted via the Department's Water e-Permitting System. The online system and user support documents can be found here: <https://dnr.wi.gov/topic/stormwater/industrial/forms.html>. (*ref: sections 1.1, 1.4, 1.5, and 6.6*)

Removal of SWPPP Summary form requirement – The Department has determined that the Storm Water Pollution Prevention Plan (SWPPP) Summary form is inadequate in determining permit coverage and ensuring adequate SWPPP development and implementation at the permitted facility for the protection of waters of the state. Submission of the full SWPPP with the notice of intent meets the provisions in s. NR 216.29 (1). (*ref: sections 3.3.2.11, 4.2.2, and 5.1*)

Amending a SWPPP – As provided by the circumstances in the permit, the permittee shall amend *and submit* the SWPPP to the department. (*ref: sections 3.4 and 5.1.5*)

Salt storage piles and facilities – The minimum source area control requirement for salt storage piles was updated to clarify the requirement for salt storage facilities and minimizing the exposure of pollutants associated with salt or brine. (*ref: sections 2.10.6 and 3.3.2.6.3*)

Facility monitoring – Reference to the US EPA's Multi-Sector General Permit for Storm Water Discharges Associated with Industrial Activity (MSGP) was updated to remove reference to the "2015" MSGP and reference the "most current version" of the MSGP. (*ref: section 3.3.2.9.3*)

Web links throughout the document were updated as needed.

ADDITIONAL INFORMATION

Further information on this general permit and the Department's storm water permit program is available online at <http://dnr.wi.gov/topic/stormwater/industrial> or by contacting the appropriate Department regional office or the Department's Central Office at <http://dnr.wi.gov/topic/stormwater/contacts.html> or:

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This document is intended solely as guidance and does not contain any mandatory requirements except where requirements found in statute or administrative rule are referenced. Any regulatory decisions made by the Department of Natural Resources in any matter addressed by this guidance will be made by applying the governing statutes and administrative rules to the relevant facts.